

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHEAMUS MCCARTHY, et al,

Plaintiff,

v.

FRANCIS SMOLINSKY, et al,

Defendants.

CIVIL ACTION  
NO. 17-0028

**ORDER**

**AND NOW**, this 12<sup>th</sup> day of January, 2018, upon consideration of Defendants' Motion to Dismiss (Docket No. 9), Plaintiffs' Motion to Amend/Correct (Docket No. 12), and all supporting and opposing papers, it is hereby **ORDERED** as follows:

1. Plaintiffs' Motion to Amend (Docket No. 12) is **GRANTED IN PART** and **DENIED IN PART**.
  - a. Plaintiffs' Motion to Amend (Docket No. 12) is **GRANTED** to the extent it seeks to withdraw the equal protection claim and amend a date in the Complaint.
  - b. Plaintiffs' Motion to Amend (Docket No. 12) is **DENIED** to the extent it attempts to re-assert the same exact claims against Defendants Shapiro or Shchuka in their personal capacities
2. Defendants' Motion to Dismiss (Docket No. 9) is **GRANTED IN PART** and **DENIED IN PART**.

- a. Defendants' Motion to Dismiss (Docket No. 9) is **GRANTED** to the extent it seeks to dismiss claims against Defendants Shapiro and Shchuka in both their official and individual capacities.
  - b. Defendants' Motion to Dismiss (Docket No. 9) is **DENIED** to the extent it seeks to dismiss claims against Defendant Smolinsky.
3. Plaintiffs are granted leave to amend the Complaint in accordance with this Court's Order within twenty (20) days from the date of this Order.

**BY THE COURT:**

/s/ Jeffrey L. Schmehl  
Jeffrey L. Schmehl, J.